

# **LEGAL SEPARATION WITHOUT MINOR CHILDREN: RESPONSE**

**YOU CAN USE THIS PACKET IF ALL OF THE FOLLOWING  
ARE TRUE:**

- ☐ YOUR SPOUSE FILED A PETITION FOR LEGAL  
SEPARATION WITHOUT MINOR CHILDREN IN COCONINO  
COUNTY
- ☐ YOU ARE NOT IN MILITARY SERVICE

Before signing a court document or getting involved with a court case, it's important to see an attorney to make sure you understand your legal rights and responsibilities. The Self-Help Center has information on finding an attorney.

## INSTRUCTIONS

Read all forms and instructions before starting. Fill out forms by printing in blue ink or typing. Do not fill in un-numbered blanks on forms. You are the “Respondent”. Your spouse is the “Petitioner”.

**Arizona Rules of Family Law Procedure:** The Arizona Rules of Family Law Procedure describe the procedures and forms required in family law cases. You can read the Rules at the Law Library or online at <[www.supreme.state.az.us/rules/ramd\\_pdf/R-05-0008.pdf](http://www.supreme.state.az.us/rules/ramd_pdf/R-05-0008.pdf)>.

**WARNING:** Depending on the circumstances of your case, the Arizona Rules of Family Law Procedure may require you to complete procedures and forms not covered in this packet. You are required to read and follow all of the rules. If you do not, the court may impose sanctions on you. At a minimum, you must read and understand Section II, on Pleadings and Motions, Section VII, on Discovery and Disclosure, and Rule 92, on Civil Contempt and Sanctions for Non-Compliance with a Court Order.

**Seeing an Attorney:** It is always advisable to see an attorney to protect your legal rights and understand your legal responsibilities. An attorney can explain your complex options for dividing property and debts and advise you on what’s best for you and your family.

**Notaries:** Some forms must be signed in front of a notary. Notaries are at most banks or listed in the Yellow Pages. The person signing must bring photo ID. Notaries usually charge a fee.

**Filing Fee:** To find the fee to file court papers, see the Self-Help Center packet *Superior Court Filing Fees* or call the Clerk’s Office at 928-779-6535. The Clerk’s Office accepts only cash, money orders, and cashier’s checks payable to “Clerk of Superior Court”. If you can’t afford the fee, see the Self-Help Center packet *Filing Fee Deferral at the Start of Your Case*.

**Filing Forms with the Court:** Take or mail forms to be filed to the Clerk of Superior Court, 200 N. San Francisco St., Flagstaff, AZ 86001. Submit the original, one copy for yourself, and one copy for each person you must give a copy to, if any. The Clerk will stamp your copies with the filing date and return them to you. If you file by mail, include a self-addressed, stamped envelope and a note asking the Clerk to return the copies.

**Domestic Violence:** If the other party has committed or threatened to commit physical violence against you or your children, and you do not want the other party to know your address: 1) use a post office box on all your court forms or 2) see Rule 7, Arizona Rules of Family Law Procedure. See the Self-Help Center *Arizona Order of Protection Packet* if you need a court to order the other party to stay away from you.

**Continuing group health benefits:** In many cases, federal law lets an employee’s spouse and children temporarily continue group health benefits under the employer’s plan after the employee and spouse are legally separated or divorced. To qualify for this extension, you or your spouse must notify the employer of your separation or divorce within 60 days of the court’s signing the Decree. The beneficiary must pay the entire premium of the continued coverage; the employer makes no contribution.

### STEP 1: READ THE PAPERS PETITIONER SERVED ON YOU

Petitioner should have filed the following papers with the court and served them on you. Read and make sure you understand *everything* Petitioner served on you.

Summons  
Notice Regarding Community Debts  
Petition

Decree  
Preliminary Injunction

## STEP 2: DETERMINE HOW LONG YOU HAVE TO RESPOND

See the table below for how long you have to file a written response to the Petition. Find the date in the “After” column on a calendar. Start counting on the next day. Count off the days in the “Count” column, including weekends and holidays. If you want to file a response, you must do so by the last date you counted, unless it’s a weekend or court holiday, in which case you must do so by the next workday.

Where Were the Papers Served?	How Were the Papers Served?	Count:	After:
In AZ*	Acceptance of Service	20 days	You sign the Acceptance of Service
	Process Server	20 days	You receive the papers from the process server
	Sheriff or Tribal Law Enforcement	20 days	You receive the papers from the officer
Outside of AZ	Acceptance of Service	30 days	You sign the Acceptance of Service
	Certified Mail	30 days	You sign the green card
	Process Server	30 days	You receive the papers from the process server
	Sheriff or Tribal Law Enforcement	30 days	You receive the papers from the officer
	Publication	30 days	30 days after the first publication

**\*If the Papers Were Served on an Indian Reservation in Arizona:** Depending on the facts and circumstances of the case, there *may* be more days for you to respond. An attorney can advise you.

## STEP 3: DECIDE HOW TO PROCEED

### If Respondent Agrees with Everything in the Petition:

Respondent can: Not respond. Respondent may sign the Decree before the hearing to show the court he/she agrees. Respondent will lose the right to object to anything. See an attorney for other options.

Then Petitioner can: File for default. See the Self-Help Center packet *Filing for Default*.

The case will end: At a default hearing (unless Respondent files a Response within the default grace period).

### If Respondent Disagrees with Something in the Petition:

Respondent can: File a Response.

Then either spouse can: Ask the court to schedule a trial if the court does not automatically schedule a hearing. See the Self-Help Center packet *How to Set Your Case for Trial*.

The case will end: At a trial.

### If Respondent Fails to Respond on Time:

Petitioner can: File for default. See the Self-Help Center packet *Filing for Default*.

The case will end: At a default hearing (unless Respondent files a Response within the default grace period).

### If Spouses Come to an Agreement After Respondent Files a Response:

Spouses can: See the Self-Help Center packet *Stipulation*.

The case will end: At a 15-minute hearing.

**If Respondent Does Not File a Response, and Spouses Come to an Agreement Different from the Petition:**

Spouses can:	Fill out and sign a new Decree. File the new Decree with a note saying it is the most current Decree and both spouses signed it.
Then Petitioner can:	File for default. See the Self-Help Center packet <i>Filing for Default</i> .
The case will end:	At a default hearing (unless Respondent files a Response within the default grace period).

**STEP 4: IF RESPONDENT FILES A RESPONSE:  
SEE FAMILY LAW RULES 49 AND 66**

If Respondent files a Response, you must meet the requirements of Rule 49, on disclosure, and Rule 66, on alternative dispute resolution, in the Arizona Rules of Family Law Procedure.

**STEP 5: READ THE CONCILIATION COURT FACT SHEET**

If you want to apply for counseling or mediation, see the Self-Help Center packet *Conciliation Court: Asking for Counseling or Mediation Services Before You Get a Court Order*. If you want to file a Response, you must do so before the default deadline even if you file for Conciliation Court.

**STEP 6: IF YOU DISAGREE WITH THE DIVISION OF PROPERTY OR DEBTS ASKED FOR IN THE PETITION:  
DECIDE HOW TO DIVIDE PROPERTY AND DEBTS**

You will enter how you want to divide property and debts on the Response.

**Community Property and Debts:** In general, community property is property (other than a gift or inheritance to one party) that you and your spouse acquire after you were married and before one spouse serves divorce papers on the other. See the Petition for a list of types of community property. One type of community property is retirement benefits (pension/retirement fund/profit sharing/stock plans/401k). Division of retirement benefits is a complicated area of the law. After the judge divides the retirement benefits, you will have to contact an attorney, accountant, or company representative to get the documents needed to access the retirement monies.

In general, community debts are debts you and your spouse acquire after you were married and before one spouse serves divorce papers on the other, no matter who spent the money. Generally, the court will order a fair division and will not give most or all of the property or debts to one spouse. If you and/or your spouse still owe money on a piece of property, the court will probably give that debt to the same spouse who gets that property. You may ask that real property be sold and the proceeds divided between you and your spouse. Community property and debts you fail to list on the Petition will be considered still owned or owed by both you and your spouse.

**Separate Property and Debts:** In general, separate property is property you or your spouse acquire before you were married, after one spouse serves divorce papers on the other, or as an inheritance or gift to one party. Separate property may become commingled community property in some circumstances.

In general, separate debts are debts you or your spouse acquire before you were married or after one spouse serves divorce papers on the other.

The court usually will confirm that your separate property and debts are yours and your spouse's separate property and debts are your spouse's.

**STEP 7: IF YOU DISAGREE WITH THE DIVISION OF PROPERTY OR DEBTS ASKED FOR IN THE PETITION:  
FILL OUT EXHIBIT A**

- (1) Check the box indicating whether you and your spouse have community property.
- (2) For the community real property, list the address, legal description on the deed (example: "Lot 77, Pine Tree Acres, According to Book 111 of Maps"), and equity (value minus debts). If you want it to go to you or spouse, check the box indicating who should get it. If you want it sold, check the box, and enter what percent of the net proceeds should go to each spouse.

Note: Be thorough and specific when describing community property. For example, under Household Furnishings, you could say "blue and white living room sofa". Use brand and model names and serial numbers wherever possible.

- (3) For each community bank account, list the bank's name and last four digits of the account number, check the box indicating who should get it, and list the balance.
- (4) For each piece of community furniture, list the description, check the box indicating who should get it, and list the value for which it could be sold.
- (5) For each community furnishing, list the description, check the box indicating who should get it, and list the value for which it could be sold.
- (6) For each piece of community property not covered above, list the description, check the box indicating who should get it, and list the value for which it could be sold.
- (7) For each community motor vehicle, list the make, model, lienholder, last four digits of the vehicle identification #; and amount owed; check the box indicating who should get it; and list the value for which it could be sold.
- (8) For each community retirement benefit, enter the fund name and the last four digits of the account number, the name on the account, and its value. Check the box indicating how you want the funds divided. If you check Option 3, enter the percentage of each account that should go to each spouse.
- (9) Check the box indicating whether you and your spouse have community debts. For each community debt, list the creditor and the last four digits of the account or credit card number, check the box indicating to whom it should be assigned, and list the amount owed.
- (10) Check the box indicating whether you and/or your spouse have separate property. For each piece of separate property, list the description, check the box indicating who should get it, and list the value for which it could be sold.
- (11) Check the box indicating whether you and/or your spouse have separate debts. For each separate debt, list the creditor and the last four digits of the account or credit card number, check the box indicating to whom it should be assigned, and list the amount owed.
- (12) Sign in front of a notary.

**STEP 8: FILL OUT THE RESPONSE TO PETITION FOR LEGAL SEPARATION WITHOUT CHILDREN**

- (1) Enter your name; street address; city, state, and zip code; and phone number.
- (2) Enter Petitioner's name as it appears on the Petition.
- (3) Enter your name as it appears on the Petition.
- (4) Enter the case number as it appears on the Petition.
- (5) Enter Petitioner's name; street address; city, state, and zip code; birthdate; phone number; and job title. Enter the number of years and/or months Petitioner has lived in Arizona in a row to date. If Petitioner doesn't live in Arizona now, check the box indicating whether Petitioner lived in Arizona at some time during your marriage.
- (6) Enter your name; street address; city, state, and zip code; birthdate; phone number; and job title. Enter the number of years and/or months you have lived in Arizona in a row to date. If you don't live in Arizona now, check the box indicating whether you lived in Arizona at some time during your marriage.

- (7) Enter the date and location of your marriage.
- (8) Check the box indicating whether the conciliation provisions have been met or do not apply. (See the Conciliation Court Fact Sheet in this packet.)
- (9) Check the box indicating whether you have a covenant marriage (if you don't know, see your marriage license or the Self-Help Center brochure *Covenant Marriage in Arizona*). If yes, attach a copy of your marriage license.
- (10) Check the box indicating whether 1) you want a legal separation, 2) you do not want a legal separation but you do want a divorce, or 3) you do not want a legal separation or a divorce because you do not believe your marriage is irretrievably broken.
- (11) Check the box indicating whether you and/or Petitioner lived in Arizona, or Petitioner was stationed in Arizona while a member of the Armed Forces, on the date Petitioner filed the Petition.
- (12) Check the box indicating whether you have biological or adopted children together and/or the wife is pregnant by the husband.
- (13) If you want a legal separation, check the box.
- (14) If you want a divorce, check the box, and check the box indicating whether you and/or Petitioner have lived in Arizona for at least 90 days.
- (15) If any of the following is true, check the box, and check each box that applies: 1) you have a covenant marriage; 2) the Petition claims your marriage is irretrievably broken, but it is not; or 3) neither you nor Petitioner lived in Arizona on the date Petitioner filed the Petition.
- (16) Spousal support is paid by one spouse to another when the other meets at least one requirement listed in the section of the Response called "Spousal Support". If you agree with the spousal support Petitioner asked for in the Petition, check the box.
- (17) If you do not agree with the spousal support Petitioner asked for in the Petition, check the box indicating whether the court should order spousal support. If so, check the box indicating who should receive the support, enter the amount to be paid monthly, and check the box next to each requirement that spouse meets. If you want the support to end before the receiving party is remarried or deceased, enter the date the support will end.
- (18) If you agree with the division of property and debts Petitioner asked for in the Petition, check the box.
- (19) If you do not agree with the division of property and debts Petitioner asked for in the Petition, check the box.
- (20) If you filled out Exhibit A, summarize how it is different from what Petitioner asked for in the Petition.
- (21) If you agree with the tax status Petitioner asked for in the Petition, check the box.
- (22) If you do not agree with the tax status Petitioner asked for in the Petition, enter how you want to file your taxes in the years before the judge signs the Decree. If you have questions, you should see a lawyer or accountant or contact the Internal Revenue Service (IRS).
- (23) Enter any other orders you want the court to issue.
- (24) Read the Response and make sure that you understand everything in it and that everything in it is true. Sign in front of a notary.

#### **STEP 9: FILE THE FOLLOWING WITH THE COURT**

- ☐ Response to Legal Separation without Children, with the following attached if applicable:
- ☐ Exhibit A
  - ☐ A copy of your marriage license

There is a fee to file the Response.

#### **STEP 10: DELIVER COPIES TO PETITIONER**

On the day you file the Response, mail or hand-deliver a copy of each form listed above to Petitioner (mail or hand-deliver them to Petitioner's attorney if Petitioner has one).

(1) Person Filing: \_\_\_\_\_  
Street Address: \_\_\_\_\_  
City, State, Zip: \_\_\_\_\_  
Phone Number: \_\_\_\_\_  
Representing Self \_\_\_\_\_

**SUPERIOR COURT OF ARIZONA, COUNTY OF COCONINO**

In re the marriage of \_\_\_\_\_ (4) Case Number: \_\_\_\_\_  
(2) \_\_\_\_\_  
Petitioner (My spouse) **RESPONSE TO PETITION FOR LEGAL  
SEPARATION WITHOUT CHILDREN**  
(3) \_\_\_\_\_  
Respondent (Me)

**I STATE THE FOLLOWING UNDER OATH:**

**1. THE PARTIES AND THE MARRIAGE:**

(5) **My Spouse's Name:** \_\_\_\_\_  
Street Address: \_\_\_\_\_ City, State, Zip: \_\_\_\_\_  
Birthdate: \_\_\_\_\_ Phone Number: \_\_\_\_\_ Job title: \_\_\_\_\_  
Number of months/years in a row to date my spouse has lived in Arizona: \_\_\_\_\_  
If not living in Arizona now, my spouse ☐ lived ☐ did not live in Arizona at some point during our marriage.

(6) **My Name:** \_\_\_\_\_  
Street Address: \_\_\_\_\_ City, State, Zip: \_\_\_\_\_  
Birthdate: \_\_\_\_\_ Phone Number: \_\_\_\_\_ Job title: \_\_\_\_\_  
Number of months/years in a row to date I have lived in Arizona: \_\_\_\_\_  
If not living in Arizona now, I ☐ lived ☐ did not live in Arizona at some point during our marriage.

(7) **The Marriage:** Date of Marriage: \_\_\_\_\_  
City and state or country where we were married: \_\_\_\_\_

(8) Conciliation: ☐ Yes ☐ No: The conciliation provisions have been met or do not apply.

(9) Covenant Marriage: ☐ Yes ☐ No: We have a covenant marriage. If yes, a copy of our marriage license is attached.

(10) Whether I Object to a Decree of Legal Separation:

☐ I want a legal separation.

☐ I do not want a legal separation, but I do want a divorce.

☐ I do not want a legal separation or divorce because the marriage is not irretrievably broken.

**Military Service:** I am not in military service.

- (11) **Residency:** ☐ Yes ☐ No: I and/or my spouse lived in Arizona, or my spouse was stationed in Arizona while a member of the Armed Forces, on the date my spouse filed the Petition.
- (12) **Minor Children:** ☐ Yes ☐ No: We have biological or adopted children together, and/or the wife is pregnant by the husband.

**2. GENERAL DENIAL:** I deny anything stated in the Petition that I have not specifically admitted or qualified.

**I ASK THE COURT TO ORDER THE FOLLOWING:**

**1. LEGAL SEPARATION:**

- (13) ☐ Order that my spouse and I be legally separated.
- (14) ☐ Direct that the Petition be changed to a Petition for Divorce.  
☐ Yes ☐ No: My spouse and/or I have lived in Arizona for at least 90 days.
- (15) ☐ Dismiss this case because:  
☐ My spouse and I have a covenant marriage.  
☐ The Petition claims our marriage is irretrievably broken, but it is not.  
☐ Neither I nor my spouse lived in Arizona on the date my spouse filed the Petition.

**2. SPOUSAL SUPPORT:**

- (16) ☐ I agree with the spousal support the other party asked for in the Petition.
- (17) ☐ Neither party is entitled to spousal support.  
☐ Award ☐ me or ☐ the other party \$\_\_\_\_\_ per month in spousal support from the other party beginning the first day of the month after the Decree is signed because he/she:  
☐ Lacks sufficient property to provide for his or her reasonable needs  
☐ Is unable to support himself or herself through appropriate employment  
☐ Is the custodian of at least one child whose age or condition is such that the person should not be required to seek employment outside the home  
☐ Lacks earning ability in the labor market adequate to support himself or herself  
☐ Contributed to the educational opportunities of the other spouse  
☐ Had a marriage of long duration and is now of an age that precludes the possibility of gaining employment adequate to support himself or herself

Order that payments be made by the first day of each month thereafter and continue until the receiving party is remarried or deceased or until \_\_\_\_\_, whichever is sooner.  
Order that payments be made through the Support Payment Clearinghouse by automatic wage assignment. If there are temporary spousal maintenance orders, order a judgment for arrearages when the judge signs the Decree.



**3. PROPERTY AND DEBTS:**

(18) ☐ I agree with the division of property and debts the other party asked for in the Petition.

(19) ☐ Order property and debts divided as stated in Exhibit A, attached.

(20) **Summary Of the Differences Between What I Say About Property and/or Debts and What the Other Party Said In the Petition About Property and Debts:**

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**4. TAXES:**

(21) ☐ I agree with the tax status and tax exemptions asked for in the Petition.

(22) Order that for each tax year before the Decree is signed, the parties file as follows (unless agreed otherwise in writing at a later date).

☐ Married filing jointly:

Tax refunds divided as follows: Me: \_\_\_\_\_% My spouse: \_\_\_\_\_%

Taxes owed divided as follows: Me: \_\_\_\_\_% My spouse: \_\_\_\_\_%

☐ Married filing separately: Each party shall indemnify and hold the other party harmless from their assigned portion of any tax liabilities absent fraud or concealment.

(23) **5. I REQUEST THE FOLLOWING OTHER ORDERS:**

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**6. I REQUEST ANY OTHER ORDERS THAT THE COURT DEEMS APPROPRIATE.**

**CERTIFICATE OF SERVICE:** I will mail or hand-deliver a copy of this Response to Petitioner on the day I file it.

(24) Signature: \_\_\_\_\_

State of Arizona )

)

County of \_\_\_\_\_ )

Subscribed and sworn before me this date: \_\_\_\_\_ by: \_\_\_\_\_

Seal:

Notary Public: \_\_\_\_\_

Notary Expiration Date: \_\_\_\_\_